



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105**

September 9, 2011

Robert Larsen
Environmental Scientist
Lahontan Water Board
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Re: Tentative NPDES Permit for the City of South Lake Tahoe, El Dorado County, and Placer County Storm Water / Urban Runoff Discharge (NPDES Permit No. CAG616001)

Dear Mr. Larsen:

Thank you for the opportunity to provide preliminary comments on the tentative NPDES permit for the City of South Lake Tahoe, El Dorado County, and Placer County Storm Water /Urban Runoff Discharge, NPDES Permit No. CAG616001 ("tentative permit"), dated August 10, 2011.

We have been working with the State Board and the various Regional Boards in California to ensure municipal separate storm sewer system (MS4) permits incorporate clear, measurable and enforceable requirements to guide pollutant reduction efforts, effectively implement TMDLs, and protect water quality. Audits of more than 50 MS4 programs in our Region, including the Lake Tahoe MS4 program, over the last 10 years have repeatedly shown the need for clearer, more quantitative requirements to ensure effective and enforceable permits.

We laud the Regional Board's efforts to establish the Lake Tahoe TMDL and associated crediting system to track pollutant reduction efforts, and to incorporate measures in the MS4 permit to implement this new TMDL. We recognize that the Lake Clarity Crediting System is an important tool to help municipalities target storm water control actions to provide needed sediment and nutrient load reductions. It is vitally important that the storm water permit contain clear, specific requirements necessary to implement the TMDL and to evaluate the adequacy of that implementation. Revisions in the TMDL implementation provisions of the tentative permit are necessary to clarify the specific responsibilities of each of the regulated jurisdictions in carrying out the TMDL. Greater clarity and detail in the permit will be crucial for ensuring the TMDL-related requirements are understood, implemented and enforceable.

As you explained to us yesterday, the Regional Board relaxed some elements of the existing permit in the tentative revised permit while focusing on incorporating new TMDL implementation provisions. While we concur with the priority the Regional Board is placing on TMDL implementation through this permit, such focus cannot be at the expense of fundamental requirements for MS4 permits. We believe that several elements of the tentative permit need to be clarified and strengthened in order to meet minimum requirements for MS4 permits, assist in TMDL implementation, and ensure other pollutant sources are adequately controlled. Several critical elements of the tentative permit lack clear, measurable and enforceable requirements and, without revisions, may not be sufficient to "reduce the discharge of pollutants to the maximum extent practicable" as required by the Clean Water Act (CWA §402(p)(3)(B)).

For example, the tentative permit lacks adequate requirements to control runoff from construction sites, commercial and industrial sites, municipal operations, and new development and redevelopment sites as required in all MS4 permits. In addition to being basic program elements required of all MS4 permits, prescriptive, enforceable requirements in these areas also would support TMDL implementation by reducing runoff of fine sediment particles, nutrients, and other pollutants. The tentative permit's monitoring requirements also lack sufficient detail and clarity to yield data necessary to demonstrate compliance with either the TMDL-related requirements or other fundamental permit requirements. The monitoring provisions should be revised to describe specific responsibilities of permittees in implementing a monitoring program to track all implementation actions required by the permit.

We are particularly concerned that the tentative permit and fact sheet do not address the findings of the 2002 or 2009 audits of the Lake Tahoe MS4 program conducted by EPA, which identified deficiencies in the permittees' implementation of requirements prescribed under the existing NPDES permit. These audits highlighted problems with the construction program, the industrial and commercial program, the municipal operations, and the illicit discharge detection and elimination program. The audit reports reinforce our view that the tentative permit must be revised to include clearer and more enforceable requirements to ensure past permit compliance issues do not continue.

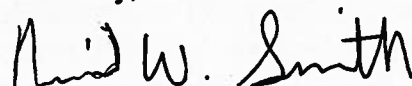
Many elements of the tentative permit are inconsistent with, and significantly less clear than, other Phase I MS4 permits recently issued by Regional Boards 1, 2, 4, 5, 8, and 9. We recognize the tentative permit is tailored to address the unique issues facing the Lake Tahoe Basin, but more prescriptive requirements, as found in various other Phase I permits throughout California, would help make the permit more effective and enforceable. See the Riverside County, Ventura County, San Bernardino County, North Orange County, and the San Francisco Bay Area permits' clear, measurable and enforceable provisions.

As we discussed yesterday, it should be possible to establish appropriate permit requirements with relatively modest revisions in permit terms. We will provide examples of California MS4 permit language that provide sufficient clarity while retaining flexibility for dischargers to craft site-specific implementation approaches. If, as you suggested, specific requirements under the Lake Clarity Crediting Program address these additional MS4 permit requirements, the permit and fact sheet should be revised to explain how the Crediting Program implementation provisions address these other required components.

EPA will submit more detailed comments on the tentative permit by November 8, 2011. In the interim, we look forward to working with Lahontan Regional Board staff to strengthen and clarify permit provisions to address our concerns, ensure compliance with Section 402(p) requirements, and support effective TMDL implementation. If these concerns cannot be addressed satisfactorily, EPA reserves its right to object to the permit pursuant to CWA Section 402(d).

If you would like to discuss these preliminary comments, please feel free to contact me at (415) 972-3464 or Amelia Whitson of my staff at (415) 972-3216.

Sincerely,



David W Smith, Manager
NPDES Permits Office (WTR-5)